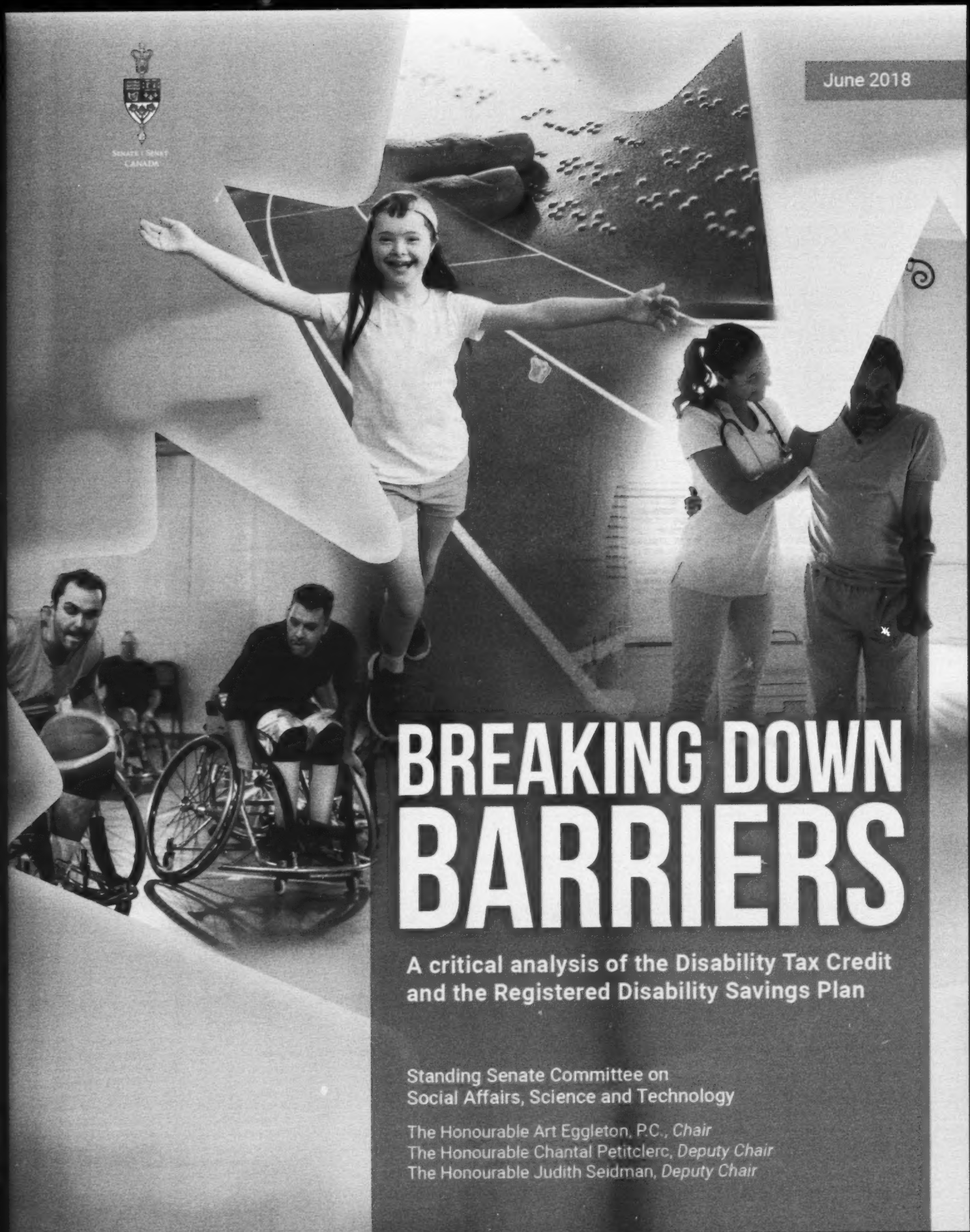

June 2018

BREAKING DOWN BARRIERS

A critical analysis of the Disability Tax Credit and the Registered Disability Savings Plan

Standing Senate Committee on
Social Affairs, Science and Technology

The Honourable Art Eggleton, P.C., *Chair*
The Honourable Chantal Petitclerc, *Deputy Chair*
The Honourable Judith Seidman, *Deputy Chair*

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ORDER OF REFERENCE

Extract from the *Journals of the Senate* of Thursday, December 14, 2017:

With leave of the Senate,

The Honourable Senator Eggleton, P.C., moved, seconded by the Honourable Senator Fraser:

That the Standing Senate Committee on Social Affairs, Science and Technology, in accordance with rule 12-7(9), be authorized to examine and report on such issues as may arise from time to time relating to social affairs, science and technology generally, including:

(a) cultural affairs and the arts, social and labour matters, health and welfare, pensions, housing, fitness and amateur sport, employment and immigration, consumer affairs, and youth affairs;

(b) elements related to its mandate or to previous reports of the committee that are found in the ministerial mandates of the Minister of Canadian Heritage, the Minister of Employment, Workforce Development and Labour, the Minister of Families, Children and Social Development, the Minister of Health, the Minister of Immigration, Refugees and Citizenship, the Minister of Infrastructure and Communities, the Minister of Innovation, Science and Economic Development, the Minister of Science, and the Minister of Sports and Persons with Disabilities; and

That the committee report to the Senate no later than December 30, 2018.

After debate,

The question being put on the motion, it was adopted.

Clerk of the Senate

Nicole Proulx

COMMITTEE MEMBERS

The Honourable Senators who participated in this study:

Art Eggleton, P.C., Chair
Chantal Petitclerc, Deputy Chair
Judith Seidman, Deputy Chair
Wanda Thomas Bernard
Fabian Manning
Marie-Françoise Mégie
Jim Munson
Ratna Omidvar
Rose-May Poirier
Nancy Greene Raine (*now retired*)

Ex Officio Members:
The Honourable Senators:

Peter Harder, P.C. (or Diane Bellemare, or Grant Mitchell)
Larry Smith (or Yonah Martin)
Yuen Pau Woo (or Raymonde Saint-Germain)
Joseph Day (or Terry Mercer)

Other senators who have participated from time to time in the study:

The Honourable Senators Christmas, Griffin and Neufeld.

Parliamentary Information and Research Services, Library of Parliament:
Elizabeth Cahill and Sonya Norris, Analysts

Senate Committees Directorate:
Shaila Anwar, Clerk of the Committee
Ferda Simpson, Committee Clerk
Tracy Amendola, Administrative Assistant

INTRODUCTION

On 14 December 2017, the Senate adopted an order of reference authorizing the Standing Senate Committee on Social Affairs, Science and Technology (the committee) to examine and report on issues relating to social affairs, science and technology generally.

Under this order the committee embarked upon a study of the Disability Tax Credit (DTC) and the Registered Disability Savings Plan (RDSP). The committee held 3 meetings between 1 February 2018 and 8 February 2018 and heard witnesses whose testimony addressed concerns related to the structure and administration of the DTC, re-establishment of the Disability Tax Advisory Committee and the accessibility and administration of the RDSP.

Over the course of the study, the committee heard from the Minister of National Revenue, the Honourable Diane Lebouthillier, P.C., M.P., as well as officials from the Canada Revenue Agency (CRA), Employment and Social Development Canada (ESDC), and the Department of Finance Canada. In addition, the committee heard from witnesses representing Autism Canada, the Canadian Association for Community Living, the Canadian Psychological Association, Diabetes Canada, Disability Tax Fairness Alliance, Juvenile Diabetes Research Foundation, The Maytree Foundation as well as Al Etmanski, an Ashoka Fellow and social innovator who was instrumental in the creation of the RDSP. The committee also received a number of written submissions.

CONTEXT

During the summer of 2017, Diabetes Canada and the Juvenile Diabetes Research Foundation were made aware of increases in the number of rejected applications for the DTC by people living with diabetes. These rejections included individuals who had been DTC eligible for many years, but were now being rejected when their DTC eligibility came up for renewal.[1] News of increases in DTC application rejections was also reported in the media. [2] In addition, recent increases in DTC application rejections are reflected in data made available by CRA. In fiscal year 2016/2017, a total of 45,157 DTC applications were rejected compared with 30,235 the year before (Figure: 1).

In November 2017, Diabetes Canada and the Juvenile Diabetes Research Foundation sent a joint letter to the Honourable Diane Lebouthillier,P.C., M.P., Minister of National Revenue, expressing concerns over the administration of the DTC and the increase in rejections. The letter noted that an internal change made by CRA directed reviewers to deny the DTC to adults receiving insulin therapy unless they had one or more chronic conditions.[3] Around this time, Autism Canada and the Canadian Autism Spectrum Disorders Alliance added their

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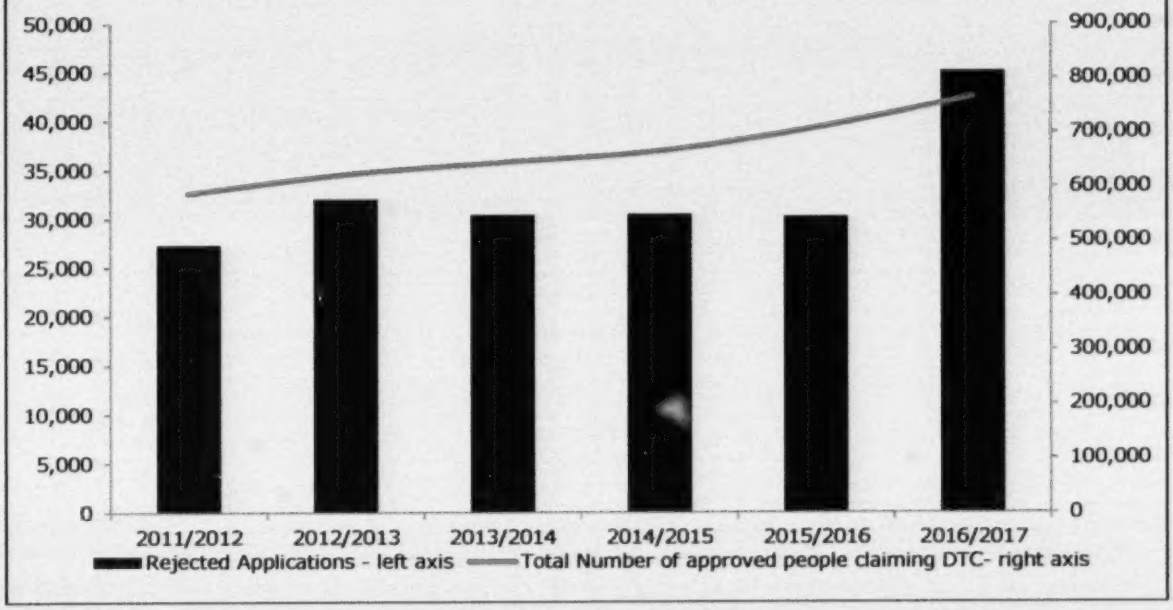
[1] For more information please see: Income Tax Folio S1-F1-C2, Disability Tax Credit, Canada Revenue Agency, 2016.

[2] In December 2017, Diabetes Canada criticized a CRA memo, which was later withdrawn, describing procedures for assessing applications from individuals with diabetes.

[3] Standing Senate Committee on Social Affairs, Science and Technology, Evidence, 42nd Parliament, 1st Session 7 February 2018 (David Prowten, President and Chief Executive Officer, Juvenile Diabetes Research Foundation).

voices to those concerned about the administration of the DTC, noting that people with autism spectrum disorder were having difficulty maintaining or applying for the DTC, and stating that the CRA should apply the DTC's "existing criteria... equally, consistently and transparently".[4]

Figure 1: Total Number of People Claiming Disability Tax Credit and the Number of New Applications Processed and Rejected: 2011 - 2017



Source: Figure prepared by the author using data obtained from the Canada Revenue Agency, 2018. Note: Rejected DTC applications represent the sum total of all categories of Basic Activities Daily Living, as rejection levels were elevated for all 10 categories. For more information please see Canada Revenue Agency, Disability Tax Credit at a glance, 2018.

CRA's response to these concerns was to confirm that, while there was no change in DTC policy, new clarification letters had been sent to health professionals that had unintentionally created confusion.

On 23 November 2017, the Honourable Diane Lebouthillier announced that the Disability Advisory Committee, formed in 2004 and disbanded in 2006, was being reinstated. The Disability Advisory Committee is intended to provide CRA with a formalized means of collaborating with the disability community and to improve the accessibility of the CRA's services to persons with disabilities. The Advisory Committee is made up of 12 volunteer members.

Minister Lebouthillier addressed the first meeting of the re-formed Advisory Committee on 24 January 2018. She stated that, "[T]his fall, issues were raised regarding the application and interpretation of the eligibility criteria for the disability tax credit. An update to the clarification

[4] *Quote is taken from a news conference held by Autism Canada in Ottawa on Thursday, 30 November 2017.*

letter sent to health professionals is the source of this debate. This update had unintended consequences and for this, I offered my most sincere apologies."[5] She reassured the public that anyone who had received a rejection letter during this period as a result of the updated clarification to health professionals would have their case reviewed.

It was within this context – growing and urgent concerns over the administration of the DTC especially as it relates to people living with autism and diabetes that the committee undertook this study. The committee also chose to look at the RDSP, since DTC eligibility is required to participate in the RDSP program.

BACKGROUND

A. The population of people with disabilities in Canada

The estimated number of Canadians aged 15 and older living with severe or very severe disabilities exceeds 1.8 million. Women comprise 56.5% of the population living with severe or very severe disabilities.[6] People with disabilities (as well as their caregivers) experience higher costs and more economic barriers than people without disabilities. In addition to higher medical costs, people with disabilities often face higher costs for other basic necessities including: transportation, utilities, accessible housing, and adaptive clothing.

Moreover, people with disabilities are more likely to have lower incomes, be unemployed or not working.[7] In 2014, 23% of people with disabilities were in low-income, compared with 9% of those individuals without a disability. Low-income rates vary by disability type: for example, the low-income rate was 17% for those with a physical–sensory disability, 27% for those with a mental–cognitive disability, and 35% for those with a combination of both.[8] The DTC and RDSP exist to address the higher costs and economic barriers related to living with a severe disability.

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[5] *Please see: Minister Lebouthillier remarks: first meeting of the Disability Advisory Committee, 24 January 2018.*

[6] *The measurement and definition of disability has evolved over time. In 2010, Canada ratified the United Nations' (UN) Convention on the Rights of Persons with Disabilities. The UN definition embraces the social model of disability where disability is the result of the interaction between a person's functional limitations and barriers in the environment, including social and physical barriers that make it harder to function day-to-day. Persons with disabilities include those who have long-term physical, mental, intellectual or sensory impairments which in interaction with various barriers may hinder their full and effective participation in society on an equal basis with others. For more information see, Convention on the Rights of Persons with Disabilities. Arim, R. A profile of persons with disabilities among Canadians aged 15 years or older, Statistics Canada, 2012. P.10.*

[7] *Till, M. et al. A Profile of the Labour Market Experiences of Adults with Disabilities among Canadians Aged 15 Years and Older, Statistics Canada, 2012.*

[8] *Wall, K., Low Income among Persons with a Disability in Canada, Statistics Canada, 2017. Statistics Canada's standard is low income after-tax low-income measure or LIM-AT. In Canada it is used as the primary method for measuring low income. LIM defines low income as earning less than one-half of the median Canadian income, adjusted for household size.*

B. The Disability Tax Credit

The Disability Tax Credit or DTC is a non-refundable tax credit that helps people with disabilities or their supporting persons reduce the amount of income tax they may have to pay. An individual may claim the disability amount after the CRA certifies their application for the credit. The purpose of the DTC is to provide for greater tax equity by allowing some relief for disability costs, since these are unavoidable additional expenses that other taxpayers do not have to face.[9]

To be eligible for the DTC, an individual must have a severe and prolonged impairment as defined in the *Income Tax Act* and as certified by a medical practitioner.[10] The effects of the impairment must be such that an individual is markedly restricted in performing basic activities of daily living all or substantially all of the time. Thus, eligibility is not based on a medical diagnosis but the effects of the impairment on one's ability to perform basic activities.

To be DTC eligible one must be markedly restricted in the following basic activities of daily living all or substantially all of the time: seeing, speaking, hearing, walking, eliminating, feeding, mental functioning (e.g. problem solving, goal setting and judgment taken together), life-sustaining therapy or cumulative effects of the combination of these limitations. (See Appendix 4 for an example of the Form T2201, Disability Tax Credit Certificate and more detailed descriptions of the basic activities of daily living).

The DTC is one of the principal federal supports for individuals in Canada with severe and prolonged impairments. The credit can be claimed by the individual with the disability and can also be transferred to an eligible caregiver such as a parent, grandparent or sibling. It cannot be carried forward to other years if the claimant has insufficient tax owing. In addition, eligibility for the DTC provides a gateway to accessing other important benefits such as the Child Disability Benefit and the Canada Disability Savings Program. Figure 2 illustrates the estimates of tax expenditures (or foregone tax revenue) associated with the DTC. In 2017, the expenditure is estimated to be $995 million.

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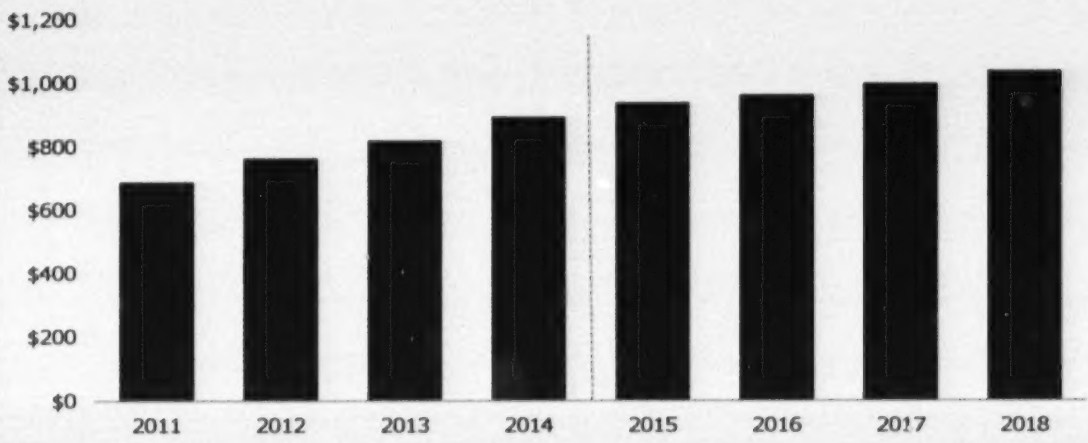
[9] *Mitra, S. et. al. "Extra Costs of Living with a Disability: A Systematized Review and Agenda for Research." Disability and Health Journal 10 (4):475-484, 2017.*

[10] *For more information please see: Income Tax Folio S1-F1-C2, Disability Tax Credit, Canada Revenue Agency, 2016.*

Figure 2 – Estimated Tax Expenditures of the Disability Tax Credit, 2011–2018 ($s in millions)



Source: Figure prepared by the author using data obtained from Finance Canada, *Report on Federal Tax Expenditures – Concepts, Estimates and Evaluations 2017*, 2017. Values to the right of the grey dotted line represent forecasts.

C. The Canadian Disability Savings Program

The Canada Disability Savings Program comprises the RDSP, the Canada Disability Savings Grant and the Canada Disability Savings Bond. The Canada Disability Savings Program enables people with severe disabilities and their families to save for the future. In turn, this helps to provide some long-term financial security of people with disabilities. Under an RDSP, a beneficiary of the plan may be eligible for the Canada Disability Savings Grant (see section below) and/or the Canada Disability Savings Bond (see section below). RDSPs grow tax-free until the beneficiary makes withdrawals.

1. The Registered Disability Savings Plan

An RDSP is an arrangement between the RDSP issuer (financial institutions that offer the RDSP) and the holder of the plan. Contributions to an RDSP can be made until the end of the year in which the beneficiary turns 59. They are after tax contributions, in contrast to contributions made to a Registered Retirement Savings Plan, and will not reduce the amount of tax owing. As such, contributions that are withdrawn are not included as income to the beneficiary when they are paid out of an RDSP. However, the Canada Disability Savings Grant (grant), the Canada Disability Savings Bond (bond), investment income earned in the plan, and the proceeds from rollovers are included in the beneficiary's income for tax purposes when they are paid out of the RDSP. This is because the government top-ups (grant and

bond), interest on this income and proceeds from roll-overs are all before- tax income.[11] The lifetime RDSP contribution limit is $200,000.

RDSPs are designed to encourage long-term savings. Funds in an RDSP must, except under very limited circumstances, remain in the plan for at least 10 years before they may be withdrawn without penalty. When money is withdrawn, all or a portion of the grant and bond that accumulated in the plan in the 10 years preceding the withdrawal must be repaid to the government.[12]

The eligibility requirements for an RDSP include: Canadian residency, a valid Social Insurance Number and eligibility to claim the DTC.[13] A person with a disability or someone acting on his/her behalf can open an RDSP up until December 31 of the year in which the beneficiary reaches 59 years of age. Grants and bonds can be paid up until December 31 of the year in which the beneficiary reaches 49 years of age.

Money paid to a beneficiary out of their RDSP will not affect eligibility for federal benefits, such as the Canada Child Tax Benefit, the Goods and Services Tax/Harmonized Sales Tax Credit, Old Age Security, and Employment Insurance.

As of 2015, the number of beneficiaries with an RDSP was 123,020. The total RDSP assets were valued at over $2.5 billion. The average value per RDSP was about $21,400, with the average annual contribution being about $2,500.[14]

2. Canada Disability Savings Grant

The Canada Disability Savings Grant (or grant) is the amount of money that the Government of Canada will deposit into a beneficiary's RDSP as a top-up to a private contribution. The amount of the grant is based on the amount contributed into the plan and the beneficiary's family income. The Government of Canada will contribute up to three times the amount of the private contribution. The maximum grant payable in a given year is $3,500. The maximum lifetime grant amount that may be paid on behalf of a beneficiary is $70,000. In 2015, 51.5% of RDSP plan holders received grants, with total grants paid exceeding $267 million.[15]

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[11] The Canada Disability Savings Program is complicated. For more information on tax payable on RDSP withdrawals see: Tax Payable, Government of Canada

[12] All grants and bonds that have been in the plan for less than 10 years must be paid back to the Government if: the plan is closed; or the beneficiary dies; or the beneficiary no longer qualifies for the Disability Tax Credit.

[13] An individual need only be DTC eligible. Since the DTC is a non-refundable credit it can only be used by people to claim a reduction in tax that is owed. Thus it not immediately useful to those individuals in low income who have no tax owing and no relative with tax owing to which it can be transferred.

[14] Government of Canada, Canada Disability Savings Program: Annual Statistical Review – 2015, 2017, p. 11.

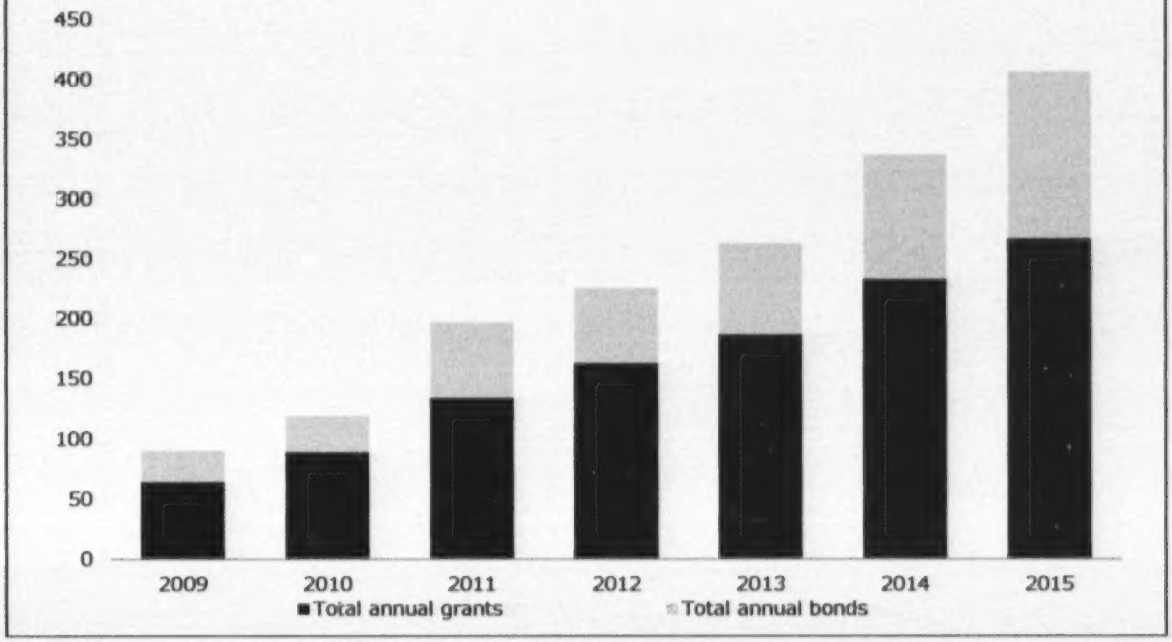
[15] Ibid., p. 12

3. Canada Disability Savings Bond

The Canada Disability Savings Bond (or bond) is money the Government of Canada deposits into the RDSP of qualified low- to moderate-income Canadians with disabilities. No private contributions are required to receive the bond. A bond may be paid into an RDSP until December 31 of the year in which the beneficiary reaches 49 years of age. The maximum bond payable in a given year is $1,000. The maximum lifetime bond amount that may be paid on behalf of a beneficiary is $20,000. In 2015, 57% of beneficiaries received a bond, with total bonds paid to plan holders exceeding $139 million.[16]

Figure 3 illustrates the annual government expenditures on the grant and bond portion of the RDSP. Expenditure on grants, which require a contribution by the plan holder (or a contribution by someone on behalf of the plan holder) far exceed government expenditures on bonds.

Figure 3 – Federal Spending on Registered Disability Savings Program Grants and Bonds, 2009–2015 ($s in millions)



Source: Figure prepared by the author using data obtained from Employment and Social Development Canada, *Canada Disability Savings Program – Annual Statistical Review 2015*, 18 January 2017.

[16] *Ibid., p. 13.*

ISSUES IDENTIFIED DURING THE STUDY

Notwithstanding the value of the DTC and RDSP in helping Canadians with disabilities cope with associated expenses, we know there are a number of challenges with how these programs operate...

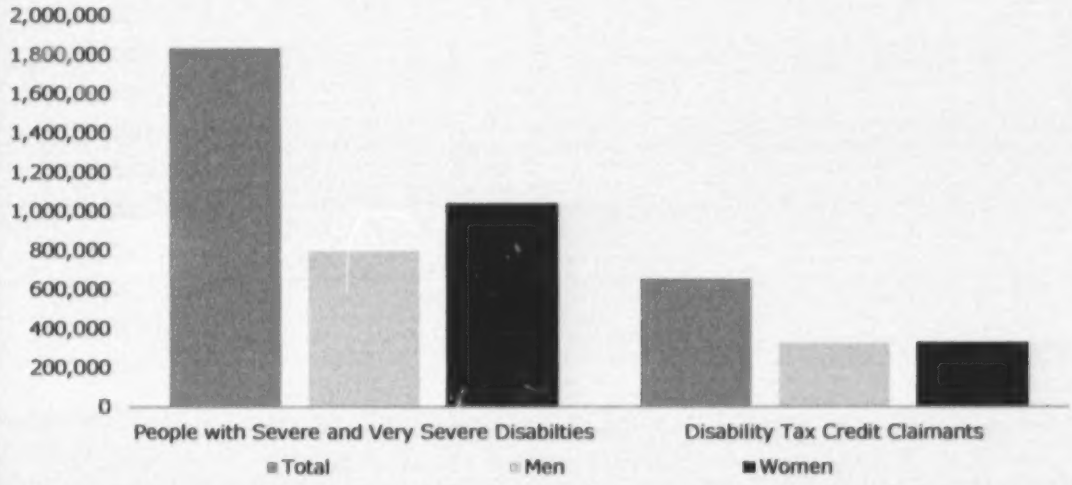
Kimberley Hanson, Director, Federal Affairs,
Diabetes Canada

A. The Disability Tax Credit

1. *The Disability Tax Credit is an important benefit but it is underutilized*

Numerous witnesses explained that the DTC is needed by people with disabilities and their families in order to offset higher costs and economic challenges, but the program is underutilized. Further, specific sub-populations are disproportionately disadvantaged, notably: people in low income (i.e. individuals who likely have no tax owing), women and Indigenous Canadians (especially First Nations living on-reserve). The available data lends support to these views. Figure 4 illustrates the number of people reporting a severe and very severe disability compared to the number of people claiming the DTC, by gender.

Figure 4 – Number of Individuals Reporting Severe/Very Severe Disability and the Number of Individuals Claiming the Disability Tax Credit by sex: 2012



Source: Figure prepared by the author using data obtained from Statistics Canada, *Canadian Survey on Disability*, 2012; and Statistics Canada, SPSD/M v. 22.3. (Note: The Canadian Survey on Disability includes people 15 years or older. Estimates of DTC claimants using SPSD/M include individuals claiming the credit for themselves and those receiving a credit that has been transferred from a spouse or dependent.)

Fewer than 40 % of the over 1.8 million adults who report qualifying disabilities are claiming the credit. Moreover, the credit is claimed in roughly equal numbers by men and women; yet over 56% of those reporting severe and very severe disabilities in the *Canadian Survey on Disability* are women.[17]

> *But we should always remember that two thirds of the poorest of those who otherwise are eligible for the DTC get nothing out of it as long as it is non-refundable.*
>
> Michael Mendelson, Maytree Fellow,
> The Maytree Foundation

The committee heard that one important factor contributing to the low take-up is that the DTC is non-refundable. People who do not have sufficient income tax payable often get no benefit from a non-refundable tax credit. It is estimated that between 60% and 66% of people who would be eligible on the basis of disability are in low-income and not paying income tax. They are among the most vulnerable members of our society and the DTC provides little or no benefit to them. [18]

2. *People with certain types of disabilities have more difficulty claiming the credit*

> *The Disability Tax Credit was designed as a tax fairness measure to promote equity by offsetting the additional costs associated with a person's disabilities. Why, then, are those with autism spectrum being denied access to this fairness measure at an alarming rate?*
>
> Dermot Cleary, Board Chair,
> Autism Canada

The committee heard that certain types of disabilities are disproportionately disadvantaged. Dermot Cleary, from Autism Canada, indicated that the DTC is a physical disability-focused tax credit and does not adequately reflect neurodevelopmental issues. DTC data recently published and provided to the committee by CRA during the course of the study lends support to this view.

Figure 5 illustrates the approval rates for DTC applications according to activity limitations from 2011-2012 to 2016-2017. Across this time period approval rates are fairly consistent.

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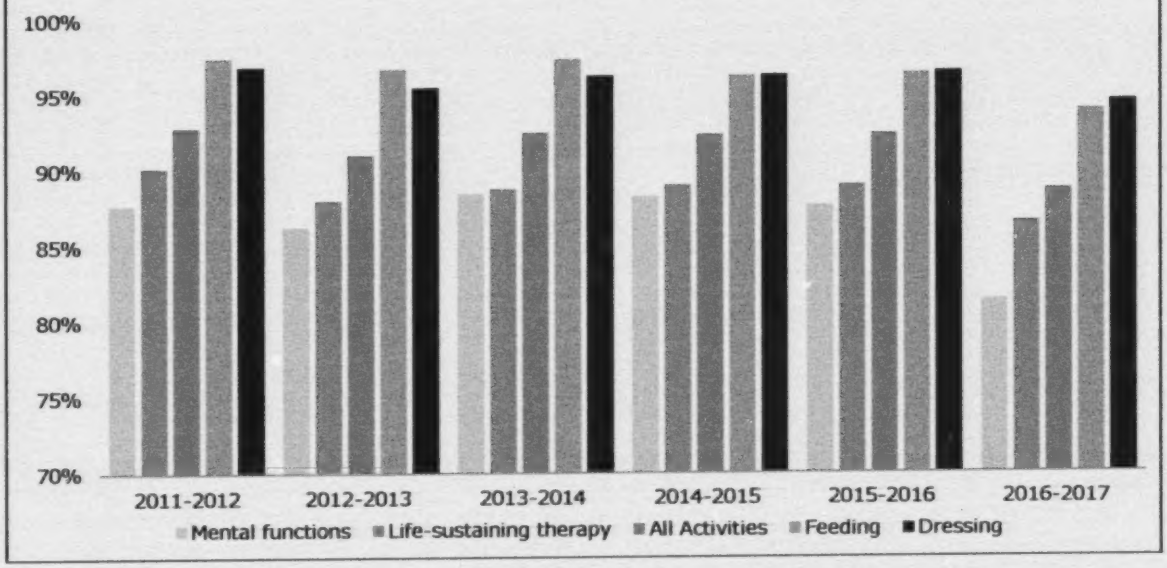
[17] ***Dunn, S. et al,*** *Why is Uptake is the Disability Tax Credit Low in Canada? Exploring Barriers to Access,* ***SPP Research Papers, 2018. p.7. Simpson, W et. al.*** *The Disability Tax Credit: Why It Fails and How to Fix It,* ***SPP Research Papers, 2016. Also see Written Submission from the Disability Tax Fairness Alliance, 2018, p. 1.***

[18] ***Mendelson, M.*** *Options for a Refundable Disability Tax Credit for 'Working Age' Persons,* ***Maytree Foundation, 2015.***

The approval rate for all new applications processed ranged between 93% and 91% over the five-year period between 2011-2012 and 2015-2016. In 2016-2017, the approval rate for new applications declined to 89%.

Figure 5: Rates of Approval for Processed Disability Tax Credit Applications: Mental Functions, Life Sustaining Therapies, All Activities, Feeding and Dressing



Source: Figure prepared by the author using data obtained from the Canada Revenue Agency, 2018.

Yet, when data was disaggregated by activity limitations, applications related to mental functions had consistently the lowest approval rates. Over the six-year period, applications related to mental functions had an approval rate ranging from 88% in 2011-2012 to a low of 81% in 2016-2017. Applications related to life-sustaining therapies also had consistently lower approval rates, ranging between 90% and 87% over the period.[19]

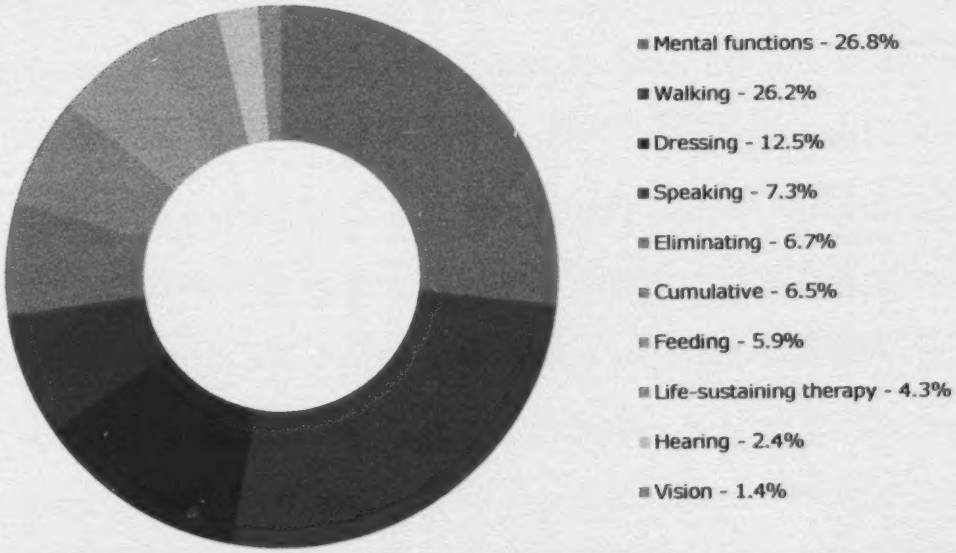
Applications related to the activities of dressing (often associated with pain and muscleo-skeletal disabilities) and feeding (a person requiring a feeding tube) consistently had the highest approval rates, ranging between 97% and 94% over the period. It is also noted that 2016-2017 appears to be an outlier year, with approval rates lower across all activity limitations but most significantly for activities related to mental functioning.

The data also reveal that while activities related to mental functioning have consistently lower approval rates, they represent the largest category of DTC claimants in five of the last six years. Figure 6 illustrates the numbers of approved DTC claimants by activity limitations. In 2016–2017 DTC claimants with activity limitations related to mental functions represented

[19] *People with neurodevelopmental disabilities would be included in the category of activity limitations related to mental functions. People with disabilities related to diabetes would be included in the category of activity limitations related to life-sustaining therapy.*

close to 27% of the total. In contrast, in 2016-2017, DTC claimants with activity limitations related to administering life sustaining therapies comprised about 4.3% of total claimants.

Figure 6: Total Number of Approved People Claiming the Disability Tax Credit by Basic Activities of Daily Living: 2016-2017



Source: Figure prepared by the author using data obtained from the Canada Revenue Agency, 2018.

The committee also heard about the significant barriers that people living with episodic disabilities such Multiple Sclerosis (MS) experience when trying to access the DTC. At present, a person's disability must last for a continuous period of at least 12 months. This is problematic for people with chronic diseases that present episodic symptoms. For example, MS is a chronic, degenerative disease with no known cure. Symptoms can come and go unpredictably, being very severe and debilitating at some times and then abating for periods of time. The current criteria for the DTC does not capture the reality of those living with unpredictable, episodic experiences of disability, even though they face the same higher costs of living, economic challenges and income insecurity. In addition, because the DTC functions as the gateway to the RDSP many people living with episodic disabilities cannot access the savings program.

The committee also heard that the failure to include "work" as a basic activity of everyday living is a barrier for people living with severe neurodevelopmental, episodic and mental health disabilities in accessing the DTC.

3. *The Disability Tax Credit is administered in a way that is unnecessarily rigid, complicated and costly*

Witnesses questioned what they perceived as "rigid" thresholds placed on DTC eligibility by the CRA. For example, the eligibility threshold for administering life sustaining therapy is 14 hours per week; the threshold for assessing activity limitations related to hearing, walking or feeding is 90% of the time. Witnesses explained that these thresholds are interpretations of the law and are not found in the *Income Tax Act*.

It was explained that persons with the same disability share similar health burdens and financial challenges regardless of the time required. For example, someone managing Type 1 diabetes experiences the same activity restrictions and higher costs associated with administering insulin regardless of whether it takes 10 hours or 14 hours per week. It was also noted that these rules can often mean that young adults cease to qualify for the DTC when they turn 18 simply because their parent's time is no longer included in the amount of time spent administering a therapy. In reality the only thing that has changed is that the person has turned 18.

Moreover, many witnesses questioned the appropriateness of applying what in their view amounted to rigid and often arbitrary criteria to a population that comprises many of our most vulnerable citizens. In addition, they explained that all DTC applications must be certified by a medical practitioner and yet CRA exercises the right to question the descriptions of disabling effects of the impairment provided by qualified health care practitioners in both the T2201 form and the follow-up clarification letter. As Lembi Buchanan stated, "Unless there is clear evidence of fraud, CRA should not have the authority to disregard medical evidence certified by qualified health care practitioners acting in good faith."[20]

4. *Disability Tax Credit criteria related to mental functioning are especially problematic*

> *Requiring that impairments in problem solving, goal setting and judgment be present together makes the eligibility criteria stricter for mental functions than for physical functions.*
>
> Karen Cohen, Chief Executive Officer,
> Canadian Psychological Association

It was explained that people with physical activity limitations need only demonstrate one limitation. For example, a person can be deemed markedly restricted in walking if they can't walk, regardless of which or how many impairments contribute to this is inability to walk. Yet a person may be deemed markedly restricted in mental functions only if they have several impairments (judgment, goal setting, problem solving) taken together.

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[20] *Standing Senate Committee on Social Affairs, Science and Technology, Evidence, 42nd Parliament, 1st Session, 1 February 2018 (Lembi Buchanan, Past Co-chair Disability Tax Fairness Alliance).*

5. Requiring people with lifelong disabilities to reapply is an added burden

Several witnesses noted the burden placed upon people with disabilities that are lifelong in nature, who are still required to periodically reapply for the DTC. This administrative practice adds unnecessary stress, time and expense for those who are entitled to benefit from the credit. It also results in an unnecessary strain on resources within the medical community and the public sector, given the need for qualified practitioners to complete forms, public servants to adjudicate applications and government lawyers to defend appeals.

6. The costs of completing the application are a significant barrier to receiving the tax credit

> *These are individuals who have no one else to turn to unless they want to sacrifice one third of their refund to companies that charge contingency fees or pay a hefty legal bill.*
>
> Lembi Buchanan, Disability Tax Fairness Alliance

Because doctors or nurses are not compensated by the health system for the time they must spend filling out the T2201 form and the follow-up clarification letter, many charge a fee. This fee can be prohibitive for low income people. Moreover, the committee heard that there are private companies that charge contingency fees of up to a third of the tax refund to assist in completing the applications. While *An Act restricting the fees charged by promoters of the disability tax credit and making consequential amendments to the Tax Court of Canada Act* received Royal Assent on 29 May 2014, the legislation has yet to come into force. The committee heard from CRA officials that regulations were in the process of being drafted but did not provide a timeline for when the legislation would come into force.

7. The appeals process needs to be transparent and more compassionate

Another issue raised by witnesses is that appealing a CRA decision can be complicated because CRA does not provide individual claimants with documentation related to the reason for denial. The CRA notice of determination may reference additional information provided by a qualified medical practitioner, but it does not include a copy of the information provided, even though this document is essential for appealing the decision.

The committee was also made aware of recent cases whereby individuals who had been DTC eligible for many years lost their eligibility when it was time to reapply the application. These circumstances can be especially arduous if the person had opened an RDSP. As a result of losing their DTC eligibility, the individual will have to close down the RDSP account and pay back all government grants and bonds that have been accumulated, including the amounts accumulated during the years the individual was eligible. Moreover, the CRA notice of

determination does not advise holders of RDSPs that their plan will be terminated pending an appeal unless they take steps to protect their investment during the appeals process.

8. *Data Collection and Program Evaluation need to be rigorous, systematic and take into consideration important dynamics including gender and underlying medical condition*

In January of 2018, CRA published DTC statistics categorized by the type of Basic Activities of Daily Living.[21] The committee was informed by CRA that DTC data is not captured by underlying medical condition and that the *Privacy Act* limits the CRA in that the Agency may only collect the information required to administer DTC.

Witnesses expressed frustration with the manner in which the CRA captures and reports DTC data. At present, the data does not support effective program monitoring and evaluation. If the purpose of the DTC is to help many of the most vulnerable members of society, the government, as well as the disability and research communities must have linked disability population and benefit utilization data, in order to assess how effective the DTC is in helping its target population.

During the course of this study, the committee asked CRA officials to conduct a gender-based analysis on the DTC and provide its findings in a written submission to the committee. The CRA responded:

> *Based on the CRA's assessment, it has determined that its gender-related data is not sufficiently reliable or complete to conduct such an assessment at this time. The CRA's current projection would be that a complete Gender Based Analysis Plus assessment might only be available by spring 2019.*
>
> Canada Revenue Agency,
> Follow-up to the appearance before the Standing Committee on Social Affairs, Science and Technology[22]

9. *Reinstating the Disability Advisory Committee is a step in the right direction but more needs to be done*

> *Awareness and consultation are essential to accomplish our mission, which is, quite simply put, to provide eligible individuals with the benefits to which they are entitled.*
>
> Hon. Diane Lebouthillier, P.C., M.P.,
> Minister of National Revenue

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[21] ***Canada Revenue Agency,*** *Disability Tax Credit at a glance*, ***last updated 7 March 2018.***
[22] ***For the full text of the written submission, go to the committee's website here:*** *https://sencanada.ca/content/sen/committee/421/SOCI/Briefs/follow-up_CdaRevAgency_b.pdf*.

Most witnesses welcomed the reinstatement of the Disability Advisory Committee as an important measure to ensure that the needs of people living with disabilities are communicated to the CRA and factored into their operations. There were concerns, however, over the composition of the Disability Advisory Committee and its terms of reference.

Witnesses emphasized that revisions to the *Income Tax Act* and policy reforms were needed. It was made clear that limiting the scope of the Disability Advisory Committee to matters of administration would not ensure that the DTC works as it is intended. Witnesses also questioned whether the current composition of the Disability Advisory Committee adequately reflects the diversity and experiences of the entire disability community. For instance, the Disability Advisory Committee currently does not have representatives from the episodic disability or the neurodevelopment disability groups.

The Minister of National Revenue indicated that she was open to discussing the composition of the Disability Advisory Committee. However, she would not give a timeline for any review or additions to its membership. In addition, she added that it is challenging to strike a committee that is both manageable in size and also truly representative, given the range of diversity within the disability community. Minister Lebouthillier also indicated that she is open to communicating to the Minister of Finance Canada advice from the Disability Advisory Committee related to reviewing the legislation.

B. Registered Disability Savings Program

The RDSP turns 11 this year and is one of the most, if not the most, progressive savings plans in the world specifically designed to benefit people with disabilities.

Brendan Pooran, Senior Advisor,
Canadian Association for Community Living

1. *More people need to be using Registered Disability Savings Plans especially people with disabilities in low income*

The committee heard that the RDSP was a response to the challenge of poverty. It emerged from families getting together and sharing concerns about what would happen to their family member experiencing disability, especially after mom and dad died or became infirm and could no longer care for their loved one.[23] The shorter term practical goals were:

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[23] *Standing Senate Committee on Social Affairs, Science and Technology, Evidence, 42nd Parliament, 1st Session 7 February 2018, (Al Etmanski, Ashoka Fellow, Community Organizer and Social Innovator).*

- to enable people with disabilities to receive financial support, including from their families, and accumulate financial assets without penalty, clawback or disentitlement to other government benefits; and
- to receive this income when they most needed it, when they were young adults.

The committee heard that the longer-term aspiration of the RDSP was based upon a vision of economic citizenship for people with disabilities that:

- advances dignity, agency, pride, confidence and self-worth; and
- eliminates the soul-destroying aspects of welfare.

The committee heard that the RDSP was conceived as an initiative that would welcome and empower people with disabilities and their families to participate. It was envisioned as the beginning of a process to ensure that people with severe disabilities have an adequate income.

Witnesses echoed earlier recommendations of the 2009 Senate Standing Committee on Social Affairs, Science and Technology report, *In from the Margins, a Call to Action on Poverty, Housing and Homelessness* explaining that there is a need to develop a basic income or guaranteed income for people with severe disabilities. While much has been accomplished, still much remains to be done. [24]

Table 1 below describes the RDSP take-up of the DTC eligible population and supports the views of witnesses that more needs to be done to ensure that those who are eligible, participate. In 2015, only 24.3% of those DTC eligible had an RDSP. It is also important to remember that the DTC eligible population represents less than 40% of the population living with severe disabilities.

Table 1 –Registered Disability Savings Plans Beneficiaries by Age, Gender, Language, Geography and as a percentage of the Disability Tax Credit Eligible Population: 2015

	RDSP Beneficiaries	Individuals Who Are DTC-Eligible	Take-Up Rate
Age			
0 to 18	32,833	199,612	16.40%
19 to 34	38,323	127,339	30.10%
35 to 49	36,707	116,290	31.60%
Total 0 to 49	*107,863*	*443,241*	*24.30%*
Gender[1]			
Female	42,361	148,755	28.50%
Male	65,502	242,976	27.00%
Language			
English	96,614	373,434	25.90%
French	11,249	69,807	16.10%
Urban/Rural[2]			
Urban	94,733	366,837	25.80%
Rural	13,130	76,404	17.20%

[24] *Standing Senate Committee on Social Affairs, Science and Technology, In from the Margins, a Call to Action on Poverty, Housing and Homelessness, 2009 p. 162.*

Notes: 1. The gender variable in the DTC dataset displays missing data. Therefore, the number of DTC-eligible females and males do not add up to the total of DTC-eligible individuals ages 0 to 49.

2. The Urban/Rural variable was derived using the second character of the Forward Sortation Area (FSA) provided, the first segment of the postal code (for example, J8Z). The second character in this segment is a number that takes on values 0 through 9, with 0 indicating rural areas and 1–9 indicating urban areas.

Source: Employment and Social Development Canada, *Canada Disability Savings Program – Annual Statistical Review 2015*, 18 January 2017.

In addition, the number of men who hold RDSPs significantly outnumber women. In 2015, 42,361 beneficiaries were female compared to 65,502 male beneficiaries. Finally, the take-up rate among the DTC eligible population under 18 is only 16.4%.

2. The RDSP could better target the most vulnerable

Witnesses echoed many of the views expressed in the earlier 2014 Report of the Standing Senate Committee on Banking, Trade and Commerce, *The Registered Disability Savings Plan Program: Why Isn't It Helping More People?*.[25] Many who could benefit from the plan cannot open an RDSP due to restrictions related to their legal capacity. Family members can be caught between the desire to assure the future financial security of their relative and the stigma and restriction of basic rights to liberty that comes with formally placing their relative under a guardianship order.

The committee heard that addressing the issue of legal capacity requires the federal government work together with the provinces and territories to create harmonized legislation. While steps are being taken to address this issue, continued delay harms vulnerable people who because they lack legal capacity to enter into a contract are missing out on the opportunity to participate in the program.

The committee also heard that the rule requiring plan holders to keep contributions, grants and bonds invested for 10 years before funds can be accessed without penalty is overly burdensome. Again this issue is echoed in the 2014 Senate Report.[26] The committee heard clearly that the RDSP was never intended to be a retirement program and that other savings vehicles exist for this purpose. Witnesses stated that the government needs to trust and empower people with disabilities and their families to spend their savings when and where it is needed.

The committee also heard about an innovative model operating in British Columbia involving RDSP action groups comprising: people with disabilities, their family members, advocacy groups, lawyers, doctors, foundations, financial institutions and government representatives. The goal of these groups is to work through issues in existing programs, recognizing that even

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[25] ***Please see the Standing Senate Committee on Banking, Trade and Commerce, The Registered Disability Savings Plan Program: Why Isn't It Helping More People?, 2014 for further information on legal capacity.***

[26] ***Ibid.***

the best designed and implemented programs will need to be adjusted and revised to meet the evolving needs of the population.

3. The DTC should not be the only gateway to the RDSP

> *...there needs to be coordination and sharing of information between income support programs, including harmonization of eligibility criteria across the range of all income supports available.*
>
> Benjamin Davis, National Vice-President,
> Government Relations and President, Atlantic Division,
> Multiple Sclerosis Society of Canada

The committee heard that requiring DTC eligibility to open a plan was too restrictive and was a factor contributing to the low take-up of the program. Witnesses pointed out that the provinces and territories also deliver significant supports to people with disabilities. These programs involve a rigorous application process that must be certificated by medical professionals. More work could be done to increase federal and provincial co-operation with respect to disability support program applications (e.g. agree to use joint applications, recognize other jurisdictions' adjudication). In turn, more co-operation is needed to promote awareness of the RDSP and encourage people with disabilities and their families who qualify for provincial disability support programs to open RDSPs.

RECOMMENDATIONS

> *Maybe it's back to the short- and the long-term. There are things we can try to do in the short term to ensure these fixes are implemented well and are fair and consistent for people... And longer term, maybe we need to move to some legislative changes.*
>
> David Prowten, President and Chief Executive,
> Juvenile Diabetes Research Foundation

In the course of the study, it became clear to the committee that the DTC and RDSP were essential supports for people with disabilities and their families and that more must be done to ensure that people who need and are entitled to these benefits received them.

The committee recognizes important work by the Standing Senate Committees on Social Affairs, Science and Technology and Banking, Trade and Commerce in their reports *In from the Margins, a Call to Action on Poverty, Housing and Homelessness*, *In from the Margins, Part II: Reducing Barriers to Social Inclusion and Social Cohesion* and *The Registered Disability Savings Plan Program: Why Isn't It Helping More People?*. These reports address

critical issues of economic inclusion for people with disabilities and lay the foundation for this present study on the DTC and RDSP.

While some of the recommendations in these reports were implemented, notably: enhanced communication efforts in relation to the registered disability savings plan (RDSP) program and continued support and reporting requirements related to supporting participation of people with disabilities in the labour market, the committee was reminded during this study that other important recommendations have yet to be realized.[27]

In an effort to build upon previous work, the committee offers the following recommendations: some for the short term where the government should take immediate action and others while no less urgent, will require more fundamental reforms.

A. Steps that can be taken right away

We need to continue to simplify and clarify the process for all Canadians with disabilities.

Kimberley Hanson, Director, Federal Affairs,
Diabetes Canada

1. The Disability Advisory Committee

The committee heard clearly that reinstating the Disability Advisory Committee is a step forward. Minister Lebouthillier, appearing before the committee, acknowledged that CRA needs to consult more frequently and systematically with the disability community and incorporate the advice and information received into its operations. The committee remains concerned, however, that the Disability Advisory Committee's structure, representation and terms of reference are not broad enough to address the reforms that are needed. In order to empower the Disability Advisory Committee to support the government in its work, the committee recommends as follows:

Recommendation 1:

That the Minister of National Revenue takes steps to ensure that the Disability Advisory Committee:

- better reflects the diversity of the larger disability community including intersectionality;

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[27] ***For more information on recommendations related to people with disabilities and the evidence present to the Senate Standing Committees please see: Standing Senate Committee on Social Affairs, Science and Technology,*** *In from the Margins, a Call to Action on Poverty, Housing and Homelessness*, ***2009 pp. 126 – 137 and*** *In from the Margins, Part II: Reducing Barriers to Social Inclusion and Social Cohesion*, ***2013 pp. 94-101 and Standing Senate Committee on Banking, Trade and Commerce,*** *The Registered Disability Savings Plan Program: Why Isn't Helping More People?*, ***2014.***

- includes representatives from neurodevelopmental and episodic disability communities;
- has a broader mandate which includes advising the government on administrative, policy and legislative improvements related to the Disability Tax Credit and Registered Disability Savings Plan; and
- is consulted before any substantive changes are made to the administration of the Disability Tax Credit and Registered Disability Savings Plan.

2. The Disability Tax Credit Application Process

The committee recognizes that the present Disability Tax Credit application process contains too many barriers for people living with severe disabilities to access the credits to which they are entitled. Specifically in order to reduce the costs confronted by people with disabilities in completing the DTC application, the committee recommends:

Recommendation 2:

That the Government of Canada:

- bring into force legislation limiting the fees disability services providers can charge to complete the Disability Tax Credit application; and
- increase funding to non-profit disability community organizations that support people with disabilities to complete applications for the Disability Tax Credit and the Registered Disability Savings Program.

Recommendation 3:

That the Minister of Finance revise the Disability Tax Credit eligibility criteria so that:

- impairments in problem solving, goal setting and judgment need not be present together to establish Disability Tax Credit eligibility;
- work be included as a basic activity of daily living; and
- administrative guidelines which are not clearly specified in the *Income Tax Act* be reviewed so that they better capture the reality of people living with severe disabilities and are not unnecessarily prohibitive. This includes the requirement that at least 14 hours per week be spent on administering life sustaining therapies.

3. Disability Tax Credit Review and Appeals

Witnesses drew the committee's attention to aspects of the appeals process that place unnecessary burden, costs and stress on people with disabilities who are trying to navigate a complicated program and a demanding set of administrative requirements. This is especially the case for people with lifelong disabilities. As such, the committee recommends as follows:

Recommendation 4:

That the Minister of Finance revise Disability Tax Credit rules to better recognize the lifelong nature of certain physical and mental disabilities and eliminate the need for these people to reapply for the credit.

Recommendation 5:

That the Minister of National Revenue review the current appeals process with a view to creating a straightforward, timely, transparent and informed process where the applicant has access to all relevant information (including the precise reason their application was denied) and documents (including copies of all information submitted by medical practitioners that pertain to their application).

Recommendation 6:

That the Minister of Finance and the Minister of National Revenue take the necessary measures to ensure that individuals are able to keep all contributions made to their Registered Disability Savings Plans for periods in which they qualified for the Disability Tax Credit.

4. Increasing access to the Registered Disability Savings Program

This committee lends its voice in supporting initiatives that in the short term can have a profound effect in the lives of people with disabilities. Specifically, the committee believes that more people with disabilities should be able to access the RDSP and that withdrawals should be more flexible. To meet these ends, the committee recommends as follows:

Recommendation 7:

That the Government of Canada immediately begin working with the provinces and territories to reform legislation with respect to legal capacity and representation to ensure that all people with qualifying disabilities over the age of 18 can access the Registered Disability Savings Plan program.

Recommendation 8:

That the Minister of Finance take the necessary steps to reduce the period between the end of federal grant and bond contributions and the time at which the beneficiary of a Registered Disability Savings Plan can begin to make withdrawals from his or her plan without having to repay a portion of these federal contributions from ten years to five years.

Recommendation 9:

That the Minister of Finance take the necessary steps to broaden the eligibility criteria for the Registered Disability Savings Plan beyond the Disability Tax Credit such that people with severe disabilities who are eligible for provincial and territorial disability support programs are able to participate.

5. Data and Program Evaluation

The committee acknowledges the support provided by the Minister of Revenue and the CRA for this study in appearing before the committee to answer questions and providing available data related to the administration of the DTC. The committee recognizes the CRA is limited by the *Privacy Act* to collect only the information required in order to administer the DTC and welcomes the recent announcement that a Chief Data Officer has been appointed to review issues related to data quality. Yet, the committee feels compelled to draw attention to the CRA's responsibility to assess the effectiveness of the DTC in reaching its target population as well as to monitor awareness and access. This responsibility is particularly important given the DTC's role as a prerequisite to other benefits. For these reasons, the committee recommends as follows:

Recommendation 10:

That the Minister of National Revenue and the Minister of Families, Children and Social Development work together to:

- develop a strategy to collect and organize relevant data;
- leverage existing administrative and survey data to evaluate the effectiveness of the Disability Tax Credit and Registered Disability Savings Plan in reaching their target populations; and,
- determine the next steps for improving access to these benefits, with special attention to vulnerable groups (e.g. women, people in low-income, recent immigrants, LGBTQ2 individuals, First

Nations, Métis and Inuit) and the intersectionality that exists between vulnerable groups.

B. Taking the long view

There needs to be an important philosophical shift where you're dealing with children, dealing with people who are unable to speak or advocate for themselves who are in a position...of financial distress.

They're being treated in the same way as someone who wants to write off a big dinner.

Dermot Cleary, Autism Canada

1. The Administration of Income Supports for People with Disabilities

The committee heard from several witnesses that understanding and delivering supports to people with disabilities requires a very different mindset from administering and enforcing the tax code. People with disabilities are some of the most vulnerable people in society. Programs for this population need to be welcoming and delivered in a manner that ensures people are accessing the benefits they need and to which they are entitled. Ensuring that benefits are administered effectively and compassionately requires a systematic process for including people with disabilities and their families in the design, development and administration of programs. It also requires the government to recognize and accept the expertise of qualified health care practitioners, unless there is clear evidence of fraud. The committee therefore recommends that:

Recommendation 11:

That the Minister of Finance and the Minister of Families, Children and Social Development work together to shift responsibility for assessing eligibility for the Disability Tax Credit and the Registered Disability Savings Plan to Employment and Social Development Canada.

Recommendation 12:

That the Minister of Families, Children and Social Development study and adopt a participation model like the "Registered Disability Savings Plan Action Group" in order to create a systematic process whereby

people with disabilities, their families and other relevant stakeholders can inform and improve federal programs.

Recommendation 13:

That the Minister of Finance and the Minister of Families, Children and Social Development work closely with other orders of government to harmonize the application processes for disability supports programs.

2. *The challenge of poverty*

The RDSP was a bold leap. We need to now leap over that ...
We need to have a serious discussion about
poverty and people with disabilities.
It is profound.
If we take care of that, I suggest the disability
will begin to take care of itself.

Al Etmanski, Ashoka Fellow and Community Organizer

The committee heard clearly well that for too long, too many people with disabilities experience persistent poverty. This must change. The committee therefore recommends:

Recommendation 14:

That the Minister of Finance introduce legislation to make the Disability Tax Credit a refundable tax credit and coordinate with the provinces and territories so that the income from this credit is treated as exempt for people with disabilities on social assistance.

Recommendation 15:

That the Minister of Families, Children and Social Development take steps to implement a system for automatic enrolment in the Registered Disability Savings Plan once someone becomes eligible for the Disability Tax Credit or for the equivalent of disability welfare benefits at the provincial and territorial level.

Recommendation 16:

That the Minister of Finance work with the Minister of Families, Children and Social Development to develop a guaranteed annual basic income for Canadians with severe disabilities.

APPENDIX 1: LIST OF RECOMMENDATIONS

Recommendation 1:

That the Minister of National Revenue takes steps to ensure that the Disability Advisory Committee:

- better reflects the diversity of the larger disability community;
- includes representatives from neurodevelopmental and episodic disability communities;
- has a broader mandate which includes advising the government on administrative, policy and legislative improvements related to the Disability Tax Credit and Registered Disability Savings Plan; and
- is consulted before any substantive changes are made to the administration of the Disability Tax Credit and Registered Disability Savings Plan.

Recommendation 2:

That the Government of Canada:

- bring into force legislation limiting the fees disability services providers can charge to complete the Disability Tax Credit application; and
- increase funding to non-profit disability community organizations that support people with disabilities to complete applications for the Disability Tax Credit and the Registered Disability Savings Program.

Recommendation 3:

That the Minister of Finance revise the Disability Tax Credit eligibility criteria so that:

- impairments in problem solving, goal setting and judgment need not be present together to establish eligibility;
- work be included as a basic activity of daily living; and
- administrative guidelines which are not clearly specified in the *Income Tax Act* be reviewed so that they better capture the reality of people living with severe disabilities and are not unnecessarily prohibitive. This includes the requirement that at least 14 hours per week be spent on administering life sustaining therapies.

Recommendation 4:

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Recommendation 6:

That the Minister of Finance and the Minister of National Revenue take the necessary measures to ensure that individuals are able to keep all contributions made to their Registered Disability Savings Plans for periods in which they qualified for the Disability Tax Credit.

Recommendation 7:

That the Government of Canada immediately begin working with the provinces and territories to reform legislation with respect to legal capacity and representation to ensure that all people with qualifying disabilities over the age of 18 can access the Registered Disability Savings Plan program.

Recommendation 8:

That the Minister of Finance take the necessary steps to reduce the period between the end of federal grant and bond contributions and the time at which the beneficiary of a Registered Disability Savings Plan can begin to make withdrawals from his or her plan without having to repay a portion of these federal contributions from ten years to five years.

Recommendation 9:

That the Minister of Finance take the necessary steps to broaden the eligibility criteria for the Registered Disability Savings Plan beyond the Disability Tax Credit such that people with severe disabilities who are eligible for provincial and territorial disability support programs are able to participate.

Recommendation 10:

That the Minister of National Revenue and the Minister of Families, Children and Social Development work together to:

- develop a strategy to collect and organize data;
- leverage existing administrative and survey data to evaluate the effectiveness of the Disability Tax Credit and Registered Disability Savings Plan of reaching their target populations; and,

- determine the next steps for improving access to these benefits, with special attention to vulnerable groups (e.g. women, people in low-income, recent immigrants, LGBTQ2 individuals, First Nations, Métis and Inuit) and the intersectionality that exists between vulnerable groups.

Recommendation 11:

That the Minister of Finance and the Minister of Families, Children and Social Development work together to shift responsibility for assessing eligibility for the Disability Tax Credit and the Registered Disability Savings Plan to Employment and Social Development Canada.

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Recommendation 16:

That the Minister of Finance work with the Minister of Families, Children and Social Development to develop a guaranteed annual basic income for Canadians with severe disabilities.

APPENDIX 2: LIST OF WITNESSES

Thursday, February 1, 2018	
Autism Canada	Dermot Cleary, Board Chair
Diabetes Canada	Kimberley Hanson, Director, Federal Affairs
Multiple Sclerosis Society of Canada	Benjamin Davis, National Vice-President, Government Relations and President, Atlantic Division
Canadian Psychological Association	Karen Cohen, Chief Executive Officer
Disability Tax Fairness Alliance	Lembi Buchanan, Past Co-chair
The Maytree Foundation	Michael Mendelson, Maytree Fellow
Wednesday, February 7, 2018	
As an individual	Al Etmanski, Ashoka Fellow, Community Organizer and Social Innovator
Juvenile Diabetes Research Foundation	Patrick Tohill, Director of Government Relations; David Prowten, President and Chief Executive Officer
Canadian Association for Community Living	Brendon Pooran, Senior Advisor
Thursday, February 8, 2018	
Canada Revenue Agency	The Honourable Diane Lebouthillier, P.C., M.P., Minister of National Revenue. Nancy Chahwan, Deputy Commissioner Frank Vermaeten, Assistant Commissioner and co-chair of the Disability Advisory Committee
Employment and Social Development Canada	Krista Wilcox, Director General, Office for Disability Issues

Department of Finance Canada	Pierre Leblanc, Director General, Personal Income Tax Division, Tax Policy Branch; Lesley Taylor, Director, Social Tax Policy

APPENDIX 3: BRIEFS

- Autism Canada
- Canadian National Institute for the Blind
- Canada Revenue Agency (CRA)
- Diabetes Canada
- Disability Tax Fairness Alliance
- Maytree Foundation
- Marin, Josée

APPENDIX 4: DISABILITY TAX CREDIT APPLICATION FORM

https://www.canada.ca/content/dam/cra-arc/formspubs/pbq/t2201/t2201-17e.pdf

Canada Revenue Agency / Agence du revenu du Canada

6729
Protected B
when completed

Disability Tax Credit Certificate

Use this form to apply for the disability tax credit (DTC). The Canada Revenue Agency (CRA) will use this information to make a decision on eligibility for the DTC. See the "General information" on page 6 for more information.

Step 1 – Fill out and sign the sections of Part A that apply to you.

Step 2 – Ask a medical practitioner to fill out and certify Part B.

Step 3 – Send the form to the CRA.

Part A – To be filled out by the taxpayer

Section 1 – Information about the person with the disability

First name and initial | Last name | Social insurance number

Mailing address (Apt No. – Street No. Street name, PO Box, RR)

City | Province or territory | Postal code | Date of birth Year Month Day

Section 2 – Information about the person claiming the disability amount (if different from above)

First name and initial | Last name | Social insurance number

The person with the disability is: ☐ my spouse/common-law partner ☐ my dependant (specify): _____

Answer the following questions for **all** of the years that you are claiming the disability amount for the person with the disability.

1. Does the person with the disability live with you? Yes ☐ No ☐

   If **yes**, for which year(s)? _____

2. If you answered **no** to Question 1, does the person with the disability regularly and consistently depend on you for one or more of the basic necessities of life such as food, shelter, or clothing? Yes ☐ No ☐

   If **yes**, for which year(s)? _____

Give details about the **regular** and **consistent** support you provide for food, shelter or clothing to the person with the disability (if you need more space, attach a separate sheet of paper). We may ask you to provide receipts or other documents to support your request.

Section 3 – Adjust your income tax and benefit return

Once eligibility is approved, the CRA can adjust your returns for all applicable years to include the disability amount for **yourself** or your **dependant under the age of 18**. For more information, see Guide RC4064, *Disability-Related Information*.

☐ Yes, I want the CRA to adjust my returns, if possible. ☐ No, I do not want an adjustment.

Section 4 – Authorization

As the **person with the disability** or their **legal representative**, I authorize the following actions:

- Medical practitioner(s) can give information to the CRA from their medical records or discuss the information on this form.
- The CRA can adjust my returns, as applicable, if the "Yes" box has been ticked in section 3.

Sign here: _____ Telephone | Year Month Day

Personal information is collected under the *Income Tax Act* to administer tax, benefits, and related programs. It may also be used for any purpose related to the administration or enforcement of the Act such as audit, compliance and the payment of debts owed to the Crown. It may be shared or verified with other federal, provincial/territorial government institutions to the extent authorized by law. Failure to provide this information may result in interest payable, penalties or other actions. Under the *Privacy Act*, individuals have the right to access their personal information and request correction if there are errors or omissions. Refer to Info Source at **canada.ca/cra-info-source**, Personal Information Bank CRA PPU 218.

T2201 E (17) (Ce formulaire est disponible en français.) Canada

Patient's name: _____

Part B – Must be filled out by the medical practitioner

Step 1 – Fill out **only** the section(s) on pages 2 to 4 that apply to your patient. Each category states which medical practitioner(s) can certify the information in this part.

Note
Whether filling out this form for a child or an adult, assess your patient compared to someone of similar age with no impairment.

Step 2 – Fill out the "**Effects of impairment**", "**Duration**", and "**Certification**" sections on page 5. If more information is needed, the Canada Revenue Agency (CRA) may contact you.

Eligibility for the DTC is based on the effects of the impairment, not on the medical condition itself. For definitions and examples of impairments that may qualify for the DTC, see Guide RC4064, *Disability-Related Information*. For more information, go to **canada.ca/disability-tax-credit**.

Vision – Medical doctor, nurse practitioner, or optometrist

Your patient is considered **blind** if, even with the use of corrective lenses or medication:

- the visual acuity in **both** eyes is 20/200 (6/60) or less, with the Snellen Chart (or an equivalent); or
- the greatest diameter of the field of vision in **both** eyes is 20 degrees or less.

1. Is your patient **blind**, as described above? Yes ☐ No ☐

   If **yes**, when did your patient become blind (this is not necessarily the year of the diagnosis, as is often the case with progressive diseases)? Year ____

2. What is your patient's visual acuity **after correction**? Right eye _____ Left eye _____

3. What is your patient's visual field **after correction** (in degrees if possible)? Right eye _____ Left eye _____

Speaking – Medical doctor, nurse practitioner, or speech-language pathologist

Your patient is considered **markedly restricted** in speaking if, even with appropriate therapy, medication, and devices:

- they are **unable** or take an **inordinate amount of time** to speak so as to be understood by another person familiar with the patient, in a quiet setting; and
- this is the case **all or substantially all of the time** (at least 90% of the time).

Is your patient **markedly restricted** in speaking, as described above? Yes ☐ No ☐

If **yes**, when did your patient's restriction in speaking become a marked restriction (this is not necessarily the year of the diagnosis, as is often the case with progressive diseases)? Year ____

Hearing – Medical doctor, nurse practitioner, or audiologist

Your patient is considered **markedly restricted** in hearing if, even with appropriate devices:

- they are **unable** or take an **inordinate amount of time** to hear so as to understand another person familiar with the patient, in a quiet setting; and
- this is the case **all or substantially all of the time** (at least 90% of the time).

Is your patient **markedly restricted** in hearing, as described above? Yes ☐ No ☐

If **yes**, when did your patient's restriction in hearing become a marked restriction (this is not necessarily the year of the diagnosis, as is often the case with progressive diseases)? Year ____

Walking – Medical doctor, nurse practitioner, occupational therapist, or physiotherapist

Your patient is considered **markedly restricted** in walking if, even with appropriate therapy, medication, and devices:

- they are **unable** or take an **inordinate amount of time** to walk; and
- this is the case **all or substantially all of the time** (at least 90% of the time).

Is your patient **markedly restricted** in walking, as described above? Yes ☐ No ☐

If **yes**, when did your patient's restriction in walking become a marked restriction (this is not necessarily the year of the diagnosis, as is often the case with progressive diseases)? Year ____

Patient's name: _____

Eliminating (bowel or bladder functions) – Medical doctor or nurse practitioner

Your patient is considered **markedly restricted** in eliminating if, even with appropriate therapy, medication, and devices:

- they are **unable** or take an **inordinate amount of time** to personally manage bowel or bladder functions; and
- this is the case **all or substantially all of the time** (at least 90% of the time).

Is your patient **markedly restricted** in eliminating, as described above? Yes ☐ No ☐

If **yes**, when did your patient's restriction in eliminating become a marked restriction (this is not necessarily the year of the diagnosis, as is often the case with progressive diseases)? Year ☐☐☐☐

Feeding – Medical doctor, nurse practitioner, or occupational therapist

Your patient is considered **markedly restricted** in feeding if, even with appropriate therapy, medication, and devices:

- they are **unable** or take an **inordinate amount of time** to feed themselves; and
- this is the case **all or substantially all of the time** (at least 90% of the time).

Feeding yourself **does not** include identifying, finding, shopping for, or obtaining food.

Feeding yourself **does** include preparing food, **except** when the time spent is related to a dietary restriction or regime, even when the restriction or regime is needed due to an illness or medical condition.

Is your patient **markedly restricted** in feeding, as described above? Yes ☐ No ☐

If **yes**, when did your patient's restriction in feeding become a marked restriction (this is not necessarily the year of the diagnosis, as is often the case with progressive diseases)? Year ☐☐☐☐

Dressing – Medical doctor, nurse practitioner, or occupational therapist

Your patient is considered **markedly restricted** in dressing if, even with appropriate therapy, medication, and devices:

- they are **unable** or take an **inordinate amount of time** to dress themselves; and
- this is the case **all or substantially all of the time** (at least 90% of the time).

Dressing yourself **does not** include identifying, finding, shopping for, or obtaining clothing.

Is your patient **markedly restricted** in dressing, as described above? Yes ☐ No ☐

If **yes**, when did your patient's restriction in dressing become a marked restriction (this is not necessarily the year of the diagnosis, as is often the case with progressive diseases)? Year ☐☐☐☐

Mental functions necessary for everyday life – Medical doctor, nurse practitioner, or psychologist

Your patient is considered **markedly restricted** in performing the mental functions necessary for everyday life (described below) if, even with appropriate therapy, medication, and devices (for example, memory aids and adaptive aids):

- they are **unable** or take an **inordinate amount of time** to perform these functions by themselves; and
- this is the case **all or substantially all of the time** (at least 90% of the time).

Mental functions necessary for everyday life include:

- adaptive functioning (for example, abilities related to self-care, health and safety, abilities to initiate and respond to social interactions, and common, simple transactions);
- memory (for example, the ability to remember simple instructions, basic personal information such as name and address, or material of importance and interest); and
- problem-solving, goal-setting, **and** judgment taken together (for example, the ability to solve problems, set and keep goals, and make the appropriate decisions and judgments).

Note
A restriction in problem-solving, goal-setting, or judgment that markedly restricts adaptive functioning, all or substantially all of the time (at least 90% of the time), would qualify.

Is your patient **markedly restricted** in performing the mental functions necessary for everyday life, as described above? Yes ☐ No ☐

If **yes**, when did your patient's restriction in performing the mental functions necessary for everyday life become a marked restriction (this is not necessarily the year of the diagnosis, as is often the case with progressive diseases)? Year ☐☐☐☐

Patient's name: _____

Life-sustaining therapy – Medical doctor or nurse practitioner

Life-sustaining therapy for your patient must meet **both** of the following criteria:

- your patient needs this therapy to support a vital function, even if this therapy has eased the symptoms; and
- your patient needs this therapy at least 3 times per week, for an average of at least 14 hours per week.

The 14-hour per week requirement

Include only the time your patient must dedicate to the therapy – that is, the patient has to take time away from normal, everyday activities to receive it.

If a child cannot do the activities related to the therapy because of their age, **include** the time spent by the child's primary caregivers to do and supervise these activities.

Do not include the time a portable or implanted device takes to deliver the therapy, the time spent on activities related to dietary restrictions or regimes (such as carbohydrate calculation) or exercising (even when these activities are a factor in determining the daily dosage of medication), travel time to receive therapy, medical appointments (other than appointments where the therapy is received), shopping for medication, or recuperation after therapy.

1. Does your patient need this therapy **to support a vital function**? Yes ☐ No ☐
2. Does your patient need this therapy at least **3 times per week**? Yes ☐ No ☐
3. Does this therapy take an average of at least **14 hours per week**? Yes ☐ No ☐

If **yes**, when did your patient's therapy begin to meet the above criteria (this is not necessarily the year of the diagnosis, as is often the case with progressive diseases)? Year ☐☐☐☐

It is **mandatory** that you describe how the therapy meets the criteria as stated above. If you need more space, use a separate sheet of paper, sign it and attach it to this form.

Cumulative effect of significant restrictions – Medical doctor, nurse practitioner, or occupational therapist

Note: An occupational therapist can only certify limitations for walking, feeding and dressing.

Answer **all** the following questions to certify the cumulative effect of your patient's significant restrictions.

1. Even with appropriate therapy, medication, and devices, does your patient have a **significant restriction**, that is not quite a **marked restriction**, in **two** or more basic activities of daily living or in **vision** and **one** or more of the basic activities of daily living? Yes ☐ No ☐

   If **yes**, tick at least **two** of the following, as they apply to your patient.

   ☐ vision ☐ speaking ☐ hearing ☐ walking
   ☐ eliminating (bowel or bladder functions) ☐ feeding ☐ dressing ☐ mental functions necessary for everyday life

   Note
   You **cannot** include the time spent on life-sustaining therapy.

2. Do these restrictions exist together, **all or substantially all of the time** (at least 90% of the time)? Yes ☐ No ☐
3. Is the cumulative effect of these significant restrictions equivalent to being **markedly restricted** in **one** basic activity of daily living? Yes ☐ No ☐
4. When did the cumulative effect described above begin (this is not necessarily the year of the diagnosis, as is often the case with progressive diseases)? Year ☐☐☐☐

Patient's name: _____

Effects of impairment – Mandatory

The effects of your patient's impairment must be those which, even with therapy and the use of appropriate devices and medication, cause your patient to be restricted **all or substantially all of the time** (at least 90% of the time).

Note
Working, housekeeping, managing a bank account, and social or recreational activities are **not** considered basic activities of daily living. Basic activities of daily living are limited to walking, speaking, hearing, dressing, feeding, eliminating (bowel or bladder functions), and mental functions necessary for everyday life.

It is **mandatory** that you describe the effects of your patient's impairment on his or her ability to do **each** of the basic activities of daily living that you indicated are or were markedly or significantly restricted. If you need more space, use a separate sheet of paper, sign it and attach it to this form. You may include copies of medical reports, diagnostic tests, and any other medical information, if needed.

Duration – Mandatory

Has your patient's impairment lasted, or is it expected to last, for a continuous period of at least 12 months? For deceased patients, was the impairment expected to last for a continuous period of at least 12 months? Yes ☐ No ☐

If **yes**, has the impairment improved, or is it likely to improve, to such an extent that the patient would no longer be blind, markedly restricted, in need of life-sustaining therapy, or have the equivalent of a marked restriction due to the cumulative effect of significant restrictions? Unsure ☐ Yes ☐ No ☐

If **yes**, enter the year that the improvement occurred or may be expected to occur. Year ____

Certification – Mandatory

1. For which year(s) have you been the attending medical practitioner for your patient? _____
2. Do you have medical information on file supporting the restriction(s) for all the year(s) you certified on this form? Yes ☐ No ☐

Tick the box that applies to you:

☐ Medical doctor ☐ Nurse practitioner ☐ Optometrist ☐ Occupational therapist
☐ Audiologist ☐ Physiotherapist ☐ Psychologist ☐ Speech-language pathologist

As a **medical practitioner**, I certify that the information given in Part B of this form is correct and complete. I understand that this information will be used by the CRA to make a decision if my patient is eligible for the DTC.

Sign here: _____
It is a serious offence to make a false statement.

Name (print)

Date: Year ____ Month ____ Day ____ Telephone ____

Address

General information

What is the DTC?

The disability tax credit (DTC) is a non-refundable tax credit that helps persons with disabilities or their supporting persons reduce the amount of income tax they may have to pay. The disability amount may be claimed once the person with a disability is eligible for the DTC. This amount includes a supplement for persons under 18 years of age at the end of the year. Being eligible for this credit may open the door to other programs.

For more information, go to **canada.ca/disability-tax-credit** or see Guide RC4064, *Disability-Related Information*.

Are you eligible?

You are eligible for the DTC only if we approve your application. On this form, a medical practitioner has to indicate and certify that you have a severe and prolonged impairment and must describe its effects.

To find out if you **may be eligible** for the DTC, fill out the self-assessment questionnaire in Guide RC4064, *Disability-Related Information*. If we have already told you that you are eligible, do not send another form unless the previous period of approval has ended or if we tell you that we need one. **You should tell us if your medical condition improves**.

If you receive Canada Pension Plan or Quebec Pension Plan disability benefits, workers' compensation benefits, or other types of disability or insurance benefits, it **does not** necessarily mean you are eligible for the DTC. These programs have other purposes and different criteria, such as an individual's inability to work.

You can send the form at any time during the year. By sending your form before you file your income tax and benefit return, you may prevent a delay in your assessment. We will review your form before we assess your return. Keep a copy for your records.

Fees – You are responsible for any fees that the medical practitioner charges to fill out this form or to give us more information. However, you may be able to claim these fees as medical expenses on line 330 or line 331 of your income tax and benefit return.

What happens after you send Form T2201?

After we receive Form T2201, we will review your application. We will then send you a notice of determination to inform you of our decision. Our decision is based on the information given by the medical practitioner. If your application is denied, we will explain why on the notice of determination. For more information, see Guide RC4064, *Disability-Related Information,* or go to **canada.ca/disability-tax-credit**.

Where do you send this form?

Send your form to the Disability Tax Credit Unit of your tax centre. Use the chart below to get the address.

If your tax services office is located in:	**Send your correspondence to the following address:**
Alberta, British Columbia, Hamilton, Kitchener/Waterloo, London, Manitoba, Northwest Territories, Regina, Saskatoon, Thunder Bay, Windsor, or Yukon	Winnipeg Tax Centre 66 Stapon Road Winnipeg MB R3C 3M2
Barrie, Belleville, Kingston, Montréal, New Brunswick, Newfoundland and Labrador, Nova Scotia, Nunavut, Ottawa, Outaouais, Peterborough, St. Catharines, Prince Edward Island, Sherbrooke, Sudbury, Toronto Centre, Toronto East, Toronto North, or Toronto West	Sudbury Tax Centre Post Office Box 20000, Station A Sudbury ON P3A 5C1
Chicoutimi, Laval, Montérégie-Rive-Sud, Québec, Rimouski, Rouyn-Noranda, or Trois-Rivières	Jonquière Tax Centre 2251 René-Lévesque Blvd Jonquière QC G7S 5J2
Deemed residents, non-residents, and new or returning residents of Canada	Sudbury Tax Centre Post Office Box 20000, Station A Sudbury ON P3A 5C1 CANADA or Winnipeg Tax Centre 66 Stapon Road Winnipeg MB R3C 3M2 CANADA

What if you need help?

If you need more information after reading this form, go to **canada.ca/disability-tax-credit** or call **1-800-959-8281**.

Forms and publications

To get our forms and publications, go to **canada.ca/cra-forms** or call **1-800-959-8281**.